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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,329	08/16/2001	Laurent Cohen	488-182	3950

7590  
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08/26/2004

EXAMINER

CHAU, COREY P

ART UNIT

PAPER NUMBER

2644

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/931,329

Applicant(s)

COHEN, LAURENT

Examiner

Corey P Chau

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 1 recites the limitation "the type" in line 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6264355 to Ives et al. (hereafter as Ives).
6. Regarding Claim 1, Ives discloses an audio console (i.e. audio mixer of the type including multiple controls) (Fig. 2) comprising a joystick with at least two degrees of freedom thereby controlling two variables (column 3, lines 54-67). Ives discloses the control of panning in the console can be provided by other manually operated pointing

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device. Ives also discloses audio "panning functions" are found in many prior art audio consoles which are used in recording or monitoring environments where changing the perceived physical location of sound is desired. For example, television and film production studios use multi-channel audio consoles which include panning joysticks, trackballs or other pointing devices which are connected to electrical and electronic devices which generate panning control signals representative of physical movement of the pointing device (column 1, lines 14-23). Therefore it would have been obvious to one having ordinary skill at the time the invention was made to utilize any known pointing device, such as a trackball, as taught by Ives.

7. All elements of Claims 2 and 3 are comprehended by Claim 1. Claims 2 and 3 are rejected for the reasons stated above apropos to Claim 1.

8. Claims 1, 2, 3, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art in view of U.S. Patent No 5212733 to DeVitt et al. (hereafter as DeVitt).

9. Regarding Claim 1, Applicant's admitted prior art discloses an audio mixer wherein effects are frequently changed simultaneously, such as regeneration of the effect and the speed of the effect being used. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a device in order for two controls to be changed simultaneously, such as regeneration of the effect and the speed of the effect being used so as to allow an operator to operate two controls simultaneously without it being awkward, as taught by DeVitt. DeVitt

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discloses sound mixing device (i.e. audio mixer) comprising a mouse (i.e. a mouse comprising a trackball that can rotate with at least two degrees of freedom)(column 6, lines 9-22), wherein the mouse is used to control the location of an icon on the display; a controller that generates multiple parameters control signal that is based upon the location of the icon and is used by the circuit to control multiple parameters affecting an audio output. The states of the multiple parameters can be simultaneously controlled and usefully displayed, permitting precision and flexibility in a real time dynamic sound control and permitting a sound engineer to achieve complex mixes with a large number of parameters (column 1, lines 50-65). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Applicant's admitted prior art with the teaching of DeVitt to utilize a mouse comprising a trackball that can rotate with at least two degrees of freedom in order to control two variables, such as regeneration of the effect and the speed of the effect being used.

10. All elements of Claims 2, 3, and 4 are comprehended by Claim 1. Claims 2, 3, and 4 are rejected for the reasons stated above apropos to Claim 1.

11. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art in view of U.S. Patent No 5212733 to DeVitt as applied to claims 1-4 above, and further in view of U.S. Patent No. 5060272 to Suzuki.

12. Regarding Claim 5, Applicant's admitted prior art as modified discloses an audio mixer comprising a mouse to control two variables simultaneously, such as regeneration of the effect and the speed of the effect being used. Applicant's admitted prior art as

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modified does not expressly disclose a selector switch for selecting the audio effect to be used. However, it would have been obvious to one having ordinary skill in the art to provide a selector switch in order for sound engineer to selector audio effect such as equalization, and gain, as taught by Suzuki (Fig. 1, reference switches; Fig. 2, reference 21-24 and 28-30).

13. Regarding Claim 6, Applicant's admitted prior art as modified discloses an audio mixer comprising a mouse to control two variables simultaneously, such as regeneration of the effect and the speed of the effect being used. Applicant's admitted prior art as modified does not expressly disclose a channel selector. However, it would have been obvious to one having ordinary skill in the art to provide a channel selector in order for sound engineer to adjust the audio effect on a desired channel, as taught by Suzuki (Fig 1, reference switches; Fig. 2, reference 11-18)

14. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art in view of U.S. Patent No 5212733 to DeVitt as applied to claims 1-4 above, and further in view of U.S. Patent No. 5060272 to Suzuki and U.S. Patent No. 4993073 to Sparkes.

15. Regarding Claim 7, Applicant's admitted prior art as modified discloses an audio mixer comprising a mouse to control two variables simultaneously, such as regeneration of the effect and the speed of the effect being used. Applicant's admitted prior art as modified does not expressly disclose a potentiometer. However it is well known in the

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art that faders or sliders are incorporated on an audio mixing console, which is a potentiometer controlled, as taught by Sparkes.

16. All elements of Claim 8 are comprehended by Claim 5. Claim 8 is rejected for the reason state above. The switches of Suzuki turn on/off the audio effect (column 3, lines 32-47).

### ***Conclusion***

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey P Chau whose telephone number is (703)305-0683. The examiner can normally be reached on Monday - Friday 9:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W Isen can be reached on (703)305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

August 23, 2004

  
**FORESTER W. ISEN**  
**SUPERVISORY PATENT EXAMINER**